



21st Floor  
1251 Avenue of the Americas  
New York, NY 10020-1104

**Elizabeth A. McNamara**  
(212) 603-6437 tel  
(212) 379-5237 fax

[lizmcnamara@dwt.com](mailto:lizmcnamara@dwt.com)

August 11, 2023

**VIA ECF**

Hon. Paul G. Gardephe  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, NY 10007

Re: *Trump v. Simon & Schuster, et al.*, Case No. 1:23-cv-06883 (PGG)

Hon. Gardephe:

We represent Defendants in the above-referenced matter, and are writing (i) to provide the Court with notice that we will submit courtesy copies of Defendants' fully-briefed Rule 12(b)(6) motion to dismiss, which is now before Your Honor, and (ii) to respectfully request oral argument on the motion.

By way of background, on January 1, 2023, former-President Trump filed a complaint against Bob Woodward, Paramount Global, and Simon & Schuster related to *The Trump Tapes*, an audio and print book published by Simon & Schuster that presents 20 interviews that Woodward conducted with President Trump, plus extensive commentary on those interviews. In the complaint, as amended, Former-President Trump seeks a declaratory judgment that he is the copyright owner of the taped interviews pursuant to the Declaratory Judgment Act and an accounting of the profits, along with various state law claims.

In response, Defendants filed a motion to dismiss or transfer for improper venue and a motion to dismiss for failure to state a claim pursuant to F.R.C.P. 12(b)(6). On August 4, 2023, Hon. Rodgers in the Northern District of Florida granted Defendants' motion to transfer. *See Trump v. Simon & Schuster, et al*, 3:23-cv-02333-MCR-ZCB (N.D. FL), ECF 48. This case was subsequently transferred to the Southern District of New York, and the motion to dismiss for failure to state a claim is pending before Your Honor. *See id.* at 23 ("The Clerk is directed to transfer this case to the United States District Court for the Southern District of New York... The Defendants' separately-filed Rule 12(b)(6) motion to dismiss for failure to state a claim (ECF No. 38) will carry with the case for resolution by the transferee court.").

Pursuant to Your Individual Rules, we will be delivering a courtesy copy of the filings to the Court. The submitted copies will include Plaintiff's Amended Complaint, Defendants' 12(b)(6) motion to dismiss, Plaintiff's opposition brief, and Defendants' reply brief, as well as the accompanying declarations and exhibits.

Hon. Gardephe  
August 11, 2023  
Page 2

In addition, because Former-President Trump's complaint and opposition papers ask this Court to make unprecedented applications of settled law, Defendants respectfully request oral argument for the motion.

Respectfully admitted,

A handwritten signature in blue ink, appearing to read "Elizabeth A. McNamara", with a long horizontal flourish extending to the right.

Elizabeth A. McNamara

cc: Opposing Counsel via ECF